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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,252	04/03/2001	Thomas O.P. Fletcher	108320-00004	1308

32294 7590 09/09/2003

SQUIRE, SANDERS & DEMPSEY L.L.P.  
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TYSONS CORNER, VA 22182

EXAMINER

CORRIELUS, JEAN M

ART UNIT	PAPER NUMBER
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2172

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/824,252

Applicant(s)

FLETCHER ET AL.

Examiner

Jean M Corrielus

Art Unit

2172

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2001.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-28 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

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## DETAILED ACTION

1. This first office action is in response to the preliminary amendment received on April 3, 2001, which claims 1-28 are presented for examination.

### *Election/Restriction*

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-2, drawn to a computer system having a memory for storage of files and a main filesystem for accessing the file, classified in class 707, subclass 1.

Group II. Claims 3-16, and 25-28 drawn to prepare a custom filesystem for a computer system, classified in class 717, subclass 121.

Group III. Claims 17-24, drawn to load system configuration file, classified in class 707, subclass 205.

3. The inventions are distinct, each from the other because of the following reasons:

Inventions I, II and III are related as sub-combination disclosed as usable together in a single combination. The sub-combinations are distinct from each other if they are shown to be separately usable. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations. In the instant case, invention I and II respectively have separate utility such as a computer system having

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a memory for storage of files and a main filesystem for accessing the file; and prepare a custom filesystem for a computer system, while invention III are useable for loading system configuration file. See M.P.E.P. § 806.05(d).

4. These inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification. Restriction for examination purposes as indicated is proper.

5. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II and III; the search required for Group II is not required for Group I and III; and the search required for Group III is not required for Group I and II. Restriction for examination purposes as indicated is proper. The inventions are distinct, each from the other because of the following reasons:

Inventions I, II and III are related as sub-combination disclosed as usable together in a single combination. The sub-combinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as accessing files, invention II is useable for preparing a custom filesystem for a computer system, while invention III is useable for loading system configuration file. See M.P.E.P. § 806.05(d).

6. These inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification. Restriction for examination purposes as indicated is proper.

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7. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II and III; the search required for Group II is not required for Group I and III; and the search required for Group III is not required for Group I and II.

Restriction for examination purposes as indicated is proper.

8. A telephone call was made to Douglas H. Goldhush (Reg. No. 333,125) on September 4, 2003 to request an oral election to the above restriction requirement, but did not result in an election being made.

9. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CAR 1.143).

Applicant also is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

### ***Conclusion***

10. Any inquiry concerning this communication or early communication from the Examiner should be directed to **Jean Corrielus** whose telephone number is (703) 306-3035. The Examiner can normally be reached on the weekdays from 7:00am to 5:30pm.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, *Kim Vu*, can be reached on (703)305-9343.

Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks Washington, D.C. 20231** or faxed to:

**(703) 308-9051**, (for formal communications intended for entry)

Or:

**(703)305-9731** (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to **Crystal Park II, 2021 Crystal Drive,**

**Arlington. VA., Sixth Floor (Receptionist).**

  
Jean M. Corrielus

Patent Examiner

September 4, 2003